



TTAB

08-01-2002

U.S. Patent & TMOtc/TM Mail Ropt Dt. #22

Attorney Docket: CA-3 (#90026)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TRADEMARK TRIAL AND
APPEAL BOARD
02 AUG -5 AM 12: 24

In the Matter of Trademark Registration No. 1,446,556
Mark: "ENVY" in International Class 25

J.W.E. SILK, INC.,

Petitioner

vs.

COMMODITIES ASSISTANCE CORP.

Registrant

Cancellation No. 92/040,607

BOX TTAB
NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

APPLICANT'S ANSWER TO NOTICE OF CANCELLATION

Dear Sir:

Registrant, Commodities Assistance Corporation, a corporation organized and existing under the laws of the State of New York, located and doing business at 131-02 40th Road, Flushing, New York 11354, (hereinafter referred to as "Registrant"), for its answer to the Notice of Opposition filed by Petitioner, J.W.E. Silk, Inc., with offices at 180 Madison Avenue, Suite 1601, New York, New York, against registration of Registrant's mark "ENVY", Registration No. 1,446,556, granted July

CM

7, 1987, hereby pleads and avers as follows:

1. Answering paragraph 1 of the Petition for Cancellation, Registrant is without sufficient knowledge or information to form a belief as to the allegations made therein and accordingly denies said allegations.

2. Answering paragraph 2 of the Petition for Cancellation, Registrant is without sufficient knowledge or information to form a belief as to the allegations made therein and accordingly denies said allegations.

3. Answering paragraph 3 of the Petition for Cancellation, Registrant is without sufficient knowledge or information to form a belief as to the allegations made therein and accordingly denies said allegations.

4. Denied.

5. Denied.

AFFIRMATIVE DEFENSES

Further answering, Registrant asserts the following affirmative defenses:

6. The Petition fails to state a claim upon which any relief can be granted to Petitioner, and in particular, fails to state legally sufficient grounds for sustaining the cancellation proceeding.

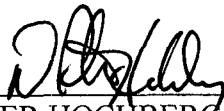
7. Petitioner is barred by the equitable theories of unclean hands, laches, estoppel and acquiescence from canceling Registrant's mark.

RELIEF REQUESTED

WHEREFORE, Registrant respectfully requests that this cancellation proceeding be dismissed with prejudice.

Respectfully submitted,

Date: July 30, 2002

By: 
D. PETER HOCHBERG
Reg. No. 24,603

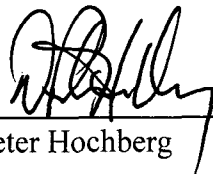
DPH/KRV

D. PETER HOCHBERG CO., L.P.A.
The Baker Building, 6th Floor
1940 East 6th Street
Cleveland, Ohio 44114
(216) 771-3800

CERTIFICATE OF SERVICE

I, D. Peter Hochberg, hereby certify that on July 30, 2002, I have mailed by first-class United States mail, postage prepaid, the foregoing REGISTRANT'S ANSWER TO PETITIONER'S CANCELLATION PETITION to the following:

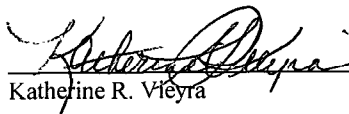
Glenn Ostrager, Esquire
Ostrager Chong & Flaherty LLP
825 Third Avenue
New York, NY 10022-7519


D. Peter Hochberg

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service as First Class mail in an envelope addressed: Box TTAB NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on the date noted below:

Date: July 30, 2002


Katherine R. Vieira